

Exhibit 12

Declaration of Krys Holmes
(Jul. 16, 2023)

Constance Van Kley
Rylee Sommers-Flanagan
Niki Zupanic
Upper Seven Law
P.O. Box 31
Helena, MT 59624
(406) 306-0330
constance@uppersevenlaw.com
rylee@uppersevenlaw.com
niki@uppersevenlaw.com

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT, DISTRICT OF
MONTANA
BUTTE DIVISION**

THE IMPERIAL SOVEREIGN COURT
OF THE STATE OF MONTANA; ADRIA
JAWORT; RACHEL CORCORAN; THE
MONTANA BOOK COMPANY; IMAGINE
BREWING COMPANY, LLC d/b/a
IMAGINE NATION BREWING
COMPANY; BUMBLEBEE AERIAL
FITNESS; MONTANA PRIDE; THE
WESTERN MONTANA COMMUNITY
CENTER; THE GREAT FALLS LGBTQ+
CENTER; THE ROXY THEATER; and
THE MYRNA LOY,

Plaintiffs,

vs.

AUSTIN KNUDSEN; ELSIE ARNTZEN;
J.P. GALLAGHER; and the CITY OF
HELENA,

Defendants.

Cause No. CV 23-50-BU-
BMM

**Declaration of Krys
Holmes, Executive
Director of the Myrna
Loy Theater**

I, Krys Holmes, declare as follows:

1. I serve as the Executive Director of the Myrna Loy, 15 North Ewing Street, Helena, MT 59601
2. The Myrna Loy is a nonprofit, community owned theater located in the Rodney Street district of downtown Helena, Montana.
3. The Myrna Loy receives grant funding through the Montana Cultural Trust and the Montana Arts council, and has received grant funds through the Department of Commerce's Tourism Grant Program.
4. The Myrna Loy hosts film screenings, live music, and theater events seven days a week.
5. The Myrna Loy's mission is to inspire the creative spirits of people in and around Helena by presenting high quality, cultural significant films and performing arts, by supporting local and regional artists in their work, and by nurturing a lifelong love of the arts through education and residencies.
6. The Myrna Loy extends its reach beyond the building by conducting arts education programs across Helena, including in schools and mental health care facilities, at hospitals and

elderhomes, and through the “Rodney Street is...” art installations.

7. The Myrna Loy historically has displayed films and authorized events that include drag, flamboyant costuming, sexual content, and partial or complete nudity as defined by HB 359. All such films and events have artistic, scientific, literary, and/or cultural value.
8. HB 359 appears to prohibit such performances at The Myrna Loy because The Myrna Loy operates in a location owned by Lewis and Clark County.
9. The Myrna Loy follows the Motion Picture Association’s ratings requirements. Audience members of all ages may attend G, PG, and PG-13 films. Audience members under the age of 17 may only view R-rated films with a parent or guardian over the age of 21.
10. The Myrna Loy authorizes on-premises consumption of alcoholic beverages—beer and wine—and houses a pub.
11. Because of the facts above, it appears that The Myrna Loy would bizarrely be considered a “sexually oriented business” under HB 359.

12. The Myrna Loy recently displayed the film *Asteroid City*.
13. *Asteroid City* is a Motion Picture Association rated PG-13 film.
14. *Asteroid City* is about children scientists forced to quarantine during a stargazer convention. In one scene Actress Scarlett Johansson disrobes and steps into a bathtub. This scene appears to meet HB 359's definition of "stripping" and thus "sexually oriented performance."
15. In accordance with Motion Picture Association ratings requirements, The Myrna Loy showed *Asteroid City* to a general audience with no age restrictions.
16. It appears that The Myrna Loy could lose its operating license and the staff and Board of Directors could face criminal and civil liability for showing this PG-13 film because of HB 359.
17. I have no way of knowing whether the State of Montana will enforce HB 359 to criminally charge or penalize The Myrna Loy or its employees.
18. The Myrna Loy, its employees, and I fear that we face criminal and civil penalties for showing artistically meritorious films in compliance with industry standards.

19. I am unable to determine how The Myrna Loy can come into compliance with HB 359 while still serving its mission, its members, and its audience.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 17th day of July, 2023.

/s/ 
Krys Holmes